IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT PETITION No.35222 of 1998

Between:

The Works Manager A.P.S.R.T.C. Workshop,
Tirupathi.

..... PETITIONER

AND

1 Smt.P.Nagamma W/o Late P.Venkataswamy
C/o N.Madhava Rao, 119/C, Type Quarters, TTD Vinayakanagar,
KT Road Tirupathi.
2 The Chairman cum Presiding Officer,

Industrial Tribunal cum Labour Court,
Ananthapur.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorari or any other appropriate writ, order or direction and call for the records relating to and in connection with the Award passed in I.D.No.94/96 Dt.23-7-98 on the file of the Labour Court, Ananthapur and quash the same as illegal and without jurisdiction and pass such other order or orders just and necessary in the circumstances of the case.

Counsel for the Petitioner: Mr. A.V. SIVAIAH

Counsel for Respondent No.1: Mr. G.RAVI MOHAN

Counsel for Respondent No.2: Government Pleader for Labour

The Court made the following :

ORAL ORDER:

This Writ Petition is filed by the Works Manager, A.P. State Road Transport Corporation, Tirupathi (Management) being aggrieved by the Award passed by the Industrial Tribunal-cum-Labour Court, Ananthapur in I.D.No.94 of 1996, dated 23-7-1998, wherein the claim petition filed by the legal representatives of the deceased workman (respondents herein) under Section 2-A(2) of the Industrial Disputes Act,1947 (for short 'the Act') was answered in their favour and the removal order passed against the deceased workman was set aside and it was also directed to treat the period from the date of suspension till the date of death of the workman i.e. upto 01-12-1989 as on duty an pay full back wages and other attendant benefits. It was also directed that since the children of the deceased workman attained majority, one among them should be appointed in a suitable post on compassionate grounds.

One K.R. Naidu, Mechanical Chargeman, made a complaint against the deceased workman late P. Venkataswamy, Cleaner. On the basis of the said complaint, a charge sheet was issued to the workman on 31-10-1987 stating that the deceased workman had assaulted the on duty Supervisor K.R. Naidu in the work premises, since K.R. Naidu refused to give leave on 20-10-1987. After conducting a detailed enquiry into the matter, the workman was removed from service with effect from 25-3-1988. Thereafter, unfortunately, the workman died on 01-12-1989. The legal representatives of the workman raised a dispute under Section 2-A(2) of the Act, which was taken up as I.D.No.94 of 1996 on the file of the Industrial Tribunal-cum-Labour Court, Ananthapur. In the claim petition, it was stated that the charges

levelled against the deceased workman were not proved and the enquiry was not properly conducted. Even otherwise, the punishment imposed is not proportionate to that of the misconduct alleged and proved against the workman. No oral or documentary evidence was let in by either party. On appreciation of the material available on record, the Labour Court came to the conclusion that there was some ill enmity between the deceased workman and K.R. Naidu regarding the sale of house and on the relevant day, there was altercation between both the parties and the same was admitted by the deceased workman in the preliminary enquiry that he removed the chappal to beat Naidu. The Labour Court found that it was K.R. Naidu, Mechanical Chargeman, who first provoked the deceased workman stating that he would beat the workman with chappal. Therefore, the deceased workman had removed his chappal and attempted to assault Naidu. Further, the evidence establishes that there were misunderstandings between the parties in respect of some properties. In view of the above, the Labour Court found that the removal of the deceased workman was not justified; therefore, directed reinstatement of the workman into service and also to treat the period - from the date of suspension till his demise – as on duty and pay full back wages and other attendant benefits. Challenging the same, the present Writ Petition is filed.

I have given my earnest consideration to the respective submissions of the learned counsel and perused the impugned Award and also the other material made available on record.

This Court is of the considered view that the Labour Court has not committed any error requiring the interference of this Court under Article 226 of the Constitution of India. There is clinching evidence to show that it is the Mechanical Chargeman K.R. Naidu, who provoked the deceased workman first saying that he would beat the workman with chappal. Under these circumstances, the workman raised his chappal to assault K.R. Naidu, apart from the fact that they are inimically disposed of against each other in view of some property disputes between them. Though this happened on the work premises, it is emanated from private misunderstandings between the parties. Therefore, this Court is of the considered opinion that the Labour Court has not committed any error in passing the impugned Award with the above directions.

However, the learned standing counsel for the respondent-Corporation states that insofar as compassionate appointment is concerned, it is for the authorities to decide the same as per the scheme and the Labour Court has no jurisdiction to pass such

an order directing the authorities to appoint any one of the children in the Corporation on compassionate grounds. So far as this aspect is concerned, it is always open for the Management to consider the case of any of the children of the deceased workman for compassionate appointment, as per the scheme available in this regard, in the Corporation.

With the above observation, the Writ Petition is disposed of. No order as to costs.

23-6-2005

prk

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Works Manager A.P.S.R.T.C. Workshop, Tirupathi.

2 The Chairman cum Presiding Officer,

Industrial Tribunal cum Labour Court,
Ananthapur.

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